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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,518	11/14/2003	Frank L. Greenway	99042-00	9982

7590 04/04/2006

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EXAMINER

JONES, DAVID B

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,518

Applicant(s)

GREENWAY ET AL.

Examiner

David B. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29 and 45-58 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29 and 45-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment dated 03/13/2006 has been entered. The pending claims in the application stand as claims 29 and 45-58. Claims 1-28 have been cancelled and claims 30-44 have been withdrawn from consideration as being directed to a non-elected invention.

2. The Final Rejection made December 07, 2005 is herein withdrawn due to the finding of more pertinent art after the amendment filed 03/13/2006.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 45, 54, 55, 57, and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Published Patent Application NZ 511,508 (published 4/26/2002). NZ '508 teaches (Figures 2 and 3) the claimed invention including a plurality of links 202/203, coupling members that are the small links between links 202 and 203 (not numbered but seen in Figs. 2 and 3), and on connection member 201. NZ '508 further teaches at least one end link 205. Regarding claim 57, the connector 201 is can be left permanently attached to a link if so desired.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over NZ 511,508 in view of Hall. NZ '508 teaches the claimed invention, as treated supra; it is noted that NZ '508 teaches a stainless steel chain so as to not stain the user. Hence NZ '508 teaches the claimed invention excepting the type of chain used; i.e., a well-known ball chain. Hall teaches the claimed ball chain including a plurality of links 10/11, a plurality of rod-shaped coupling members 12, an end connection member 15 having an opening in its cylindrical side wall, and end links at 16/16. It would have been obvious to one of ordinary skill in the art having the references of NZ '508 and Hall before him would have found it obvious to use other chains in the process taught by NZ '508 if so desired, especially that of Hall, so as to use readily available chain for the purpose of indicating weight gain. Further to have made the chain of Hall from a stainless steel or other material that is non-staining to the wearer of the chain would have been to the artisan of ordinary skill in the art but an obvious choice of chain making expedients to prevent staining of the wearer, especially in view of the teaching found in NZ '508. Hall teaches permanently attached end links 16 on the ends of his chain. It would have been obvious to one of ordinary skill in the art to have used removable links if so desired to make a smaller or bigger chain and hence meet the wearer's demands. Finally with respect to the latter exception, Hall teaches the connector to be removable with respect to either end of the chain to which it is connected; however it would have been obvious to one of ordinary skill in the art at the

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time of the invention to have crimped one end of the connector member 15 around an end link 16 to prevent the unintentional disconnection of the chain from the wearer.


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David B. Jones whose telephone number is (703) 308-1887.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-3700.

In the event that the Applicant (s) wishes to communicate via Fax number for Group 3700 is (703) 872-9306.

wahp



DAVID B. JONES
PRIMARY PATENT EXAMINER
ART UNIT 3725